

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

JAMES BENN,

Petitioner,

-against-

CHARLES GREINER,

Respondent.

-----X

WEINSTEIN, *Senior District Judge:*

The petition for habeas corpus is dismissed based upon the remand from the Court of Appeals for the Second Circuit filed August 19, 2005.

SO ORDERED.

JACK B. WEINSTEIN  
SENIOR UNITED STATES DISTRICT JUDGE

Dated: Brooklyn, New York  
August 24, 2005

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Jan

**MANDATE**

**FILED**  
United States Court of Appeals  
FOR THE  
SECOND CIRCUIT  
05 AUG 19 AM 11:59

98 cv 5621  
EDNY (brooklyn)  
Weinstein

CLERK  
U.S. DISTRICT COURT  
EASTERN DISTRICT  
**JUDGMENT**

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 9<sup>th</sup> day of March, two thousand and five.

Before: Hon. Wilfred Feinberg,  
Hon. Ralph K. Winter,  
Hon. Sonia Sotomayor  
Circuit Judges

Docket No. 04-0527-pr

JAMES BENN,

Petitioner-appellee,

v.

CHARLES GREINER,

Respondent-appellant.

Appeal from the United States District Court for the Eastern District of New York

This cause came on to be heard on the transcript of record from the United States District Court for the Eastern District of New York and was argued by counsel.

On consideration whereof, it is hereby ORDERED, ADJUDGED and DECREED that the judgment of said district court be and it hereby is REVERSED in accordance with the opinion of this court.

FOR THE COURT:  
ROSEANN B. MACKECHNIE, Clerk  
by

Arthur M. Heller  
Motions Staff Attorney

**A TRUE COPY**  
Roseann B. MacKechnie, CLERK

by

ISSUED AS MANDATE:

AUG 8 2005



*for issue order  
the petition  
for habeas  
corpus is  
dismissed  
upon the removal from  
the Court of Appeals filed  
August 17, 2005. So ordered*

**FILED**  
05 AUG 19 PM 12:25  
U.S. DISTRICT COURT  
EASTERN DISTRICT  
OF NEW YORK

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